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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,393	06/13/2001	Ronald A. Katz	6646-114N9	8506
35554	7590	12/11/2003	EXAMINER	
REENA KUYPER, ESQ. BYARD NILSSON, ESQ. 9220 SUNSET BOULEVARD SUITE 315 LOS ANGELES, CA 90069			WOO, STELLA L	
		ART UNIT		PAPER NUMBER
		2643		19
DATE MAILED: 12/11/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/881,393	KATZ, RONALD A.
Examiner	Art Unit	
Stella L. Woo	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 September 2003.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 22-29 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 22-29 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1) Certified copies of the priority documents have been received.
 - 2) Certified copies of the priority documents have been received in Application No. _____.
 - 3) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>18</u> .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barger, Jr. et al. (USPN 4,071,698, hereinafter “Barger”) in view of Gordon et al. (USPN 4,763,191, hereinafter “Gordon”), and further in view of the prior art submitted by Applicant entitled “DST Systems Inc. Mutual Fund System - Audio Response System.”.

Barger discloses a method for controlling voice-data communications, comprising the steps of:

cuing select remote terminal (audio program repeater prompts the push-button caller to enter responses; col. 6, lines 38-43; col. 11, lines 18-23);

selectively identifying said responsive signals as digital data signals (a push-button caller can enter an account number, credit card number, selection number; Figs. 4 and 6; col. 4, line 64; col. 8, lines 60-65; col. 9, lines 40-42; col. 11, lines 18-25) or digital control signals (a push-button caller can key in a specific code for operator assistance; col. 9, lines 38-40), or both (an invalid account number entered by the caller causes the call to be transferred to an operator for assistance; col. 9, lines 40-45), said responsive signals including signals indicative of a customer card number (credit card number can be used as an account number; col. 2, lines 55-57; col. 4, lines 63-64; col. 8, lines 60-65);

testing (credit verification takes place based on the credit card number; col. 8, lines 60-65);

transferring a call to an attended terminal (callers whose credit cannot be validated or those determined to be freeloaders or those who key in a specified code requesting operator assistance are automatically connected with an attended terminal 39; col. 9, lines 42-45; col. 11, lines 34-36; col. 9, lines 38-40) and displaying (operator's terminal displays all the data for the customer's call including any historical and credit verification data retrieved from memory using the received customer account number, the account number being entered by the caller, col. 9, lines 40-42, and a complete record of all transactions made by the customer in order to present the operator with an accurate and informative profile of a calling customer; col. 5, lines 29-37; col. 6, lines 3-9, 21-29); and

confirming (operator can verbally confirm with the customer data stored for said caller and displayed at the operator terminal; col. 4, line 57 - col. 5, line 45; col. 10, line 61 - col. 11, line 12).

Barger differs from claim 22 in that it does not specify receiving and recording caller number identification signals. However, Gordon teaches the well known use of caller number identification signals in a telephone ordering system for identifying callers and recording the caller number identifications signals for compiling the necessary delivery and charging information (col. 2, lines 48-64; col. 3, line 44 – col. 4, line 54; col. 7, line 43 – col. 8, line 38; col. 9, line 61 – col. 10, line 47) such that it would have been obvious to an artisan of ordinary skill to incorporate the use of caller identification signals, as taught by Gordon, within the

ordering system of Barger to provide additional identifying data for use in compiling the necessary delivery and charging information.

Barger further differs from claim 22 in that the confirmation takes place via the operator rather than a voice generator. However, Barger does teach replacing any functions of the operator with a voice generator (col. 6, lines 35-41) and the DST Systems reference clearly teaches the well known use of a voice generator in an audio response system for confirming caller entries by voice (page 2 entitled "General Features," last paragraph; page 11 entitled "Provision of Instructions to Shareholders, eighth indent) such that it would have been obvious to an artisan of ordinary skill to incorporate such confirmation via voice generator, as taught by DST Systems, within the combination of Barger and Gordon in order to relieve the human operator of the need to verbally confirm caller data, thus, resulting more efficient call handling operations.

3. Claims 23-24, 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barger in view of the prior art submitted by Applicant entitled "DST Systems Inc. Mutual Fund System - Audio Response System."

Barger discloses a method for controlling voice-data communications, comprising the steps of:

cuing select remote terminal (audio program repeater prompts the push-button caller to enter responses; col. 6, lines 38-43; col. 11, lines 18-23);

selectively identifying said responsive signals as digital data signals (a push-button caller can enter an account number, credit card number, selection number; Figs. 4 and 6; col. 4, line 64; col. 8, lines 60-65; col. 9, lines 40-42; col. 11, lines 18-25) or digital control signals (a push-

button caller can key in a specific code for operator assistance; col. 9, lines 38-40), or both (an invalid account number entered by the caller causes the call to be transferred to an operator for assistance; col. 9, lines 40-45), said responsive signals including signals indicative of a customer card number (credit card number can be used as an account number; col. 2, lines 55-57; col. 4, lines 63-64; col. 8, lines 60-65);

testing (credit verification takes place based on the credit card number; col. 8, lines 60-65);

transferring a call to an attended terminal (callers whose credit cannot be validated or those determined to be freeloaders or those who key in a specified code requesting operator assistance are automatically connected with an attended terminal 39; col. 9, lines 42-45; col. 11, lines 34-36; col. 9, lines 38-40) and displaying (operator's terminal displays all the data for the customer's call including any historical and credit verification data retrieved from memory using the received customer account number, the account number being entered by the caller, col. 9, lines 40-42, and a complete record of all transactions made by the customer in order to present the operator with an accurate and informative profile of a calling customer; col. 5, lines 29-37; col. 6, lines 3-9, 21-29); and

confirming (operator can verbally confirm with the customer data stored for said caller and displayed at the operator terminal; col. 4, line 57 - col. 5, line 45; col. 10, line 61 - col. 11, line 12).

Barger differs from claims 23-29 in that the confirmation takes place via the operator rather than a voice generator. However, Barger does teach replacing any functions of the operator with a voice generator (col. 6, lines 35-41) and the DST Systems reference clearly

teaches the well known use of a voice generator in an audio response system for confirming caller entries by voice (page 2 entitled "General Features," last paragraph; page 11 entitled "Provision of Instructions to Shareholders, eighth indent) such that it would have been obvious to an artisan of ordinary skill to incorporate such confirmation via voice generator, as taught by DST Systems, within the method of Barger in order to relieve the human operator of the need to verbally confirm caller data, thus, resulting more efficient call handling operations.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barger in view of the DST reference, as applied to claim 24 above, and further in view of Stephenson, Jr. et al. (US 3,727,186, hereinafter "Stephenson").

The combination of Barger and the DST reference differs from claim 25 in that although it does teach credit card authorization (Barger, col. 8, lines 60-65; col. 9, lines 42-44), it does not specify the credit verification process as including testing for negative file data. However, Stephenson teaches that it is old and well known in the credit authorization art to test for negative file data (warning file 30) when determining whether or not a credit card number is authorized (col. 5, lines 22-28; col. 6, lines 30-37) and for referring the call to an operator in the event the credit card account is on the warning list (col. 5, lines 22-55; col. 6, lines 30-65; col. 8, lines 23-47) such that it would have been obvious to an artisan of ordinary skill to test for negative file data and refer such "negative" calls to an operator, as taught by Stephenson, within the combination of Barger and the DST reference so that calls providing credit card numbers which have been flagged as invalid can be forwarded to an operator for a further authorization check.

Response to Arguments

5. Applicant's arguments filed September 15, 2003 have been fully considered but they are not persuasive.

Applicant argues that Gordon does not teach recording caller number identification signals as additional data for the caller. However, Gordon clearly provides for recording ANI information as part of the billing record for charging the calling customer, the ANI information being in addition to other information being recorded as part of the billing record (col. 3, line 44 – col. 4, line 54; col. 7, line 43 – col. 8, line 38; col. 9, line 61 – col. 10, line 47).

Applicant argues that "Barger receives only account numbers" and "Gordon receives only ANI identification." The examiner disagrees. Barger teaches that the customer identification data may be an account number, credit card number, name or address (col. 4, lines 61-64), and Gordon teaches receiving credit card information from the caller (col. 3, lines 1-3; col. 10, lines 35-38).

Applicant argues that in Barger, "if operator-assistance is indicated, no entered data exists." The examiner disagrees. In Barger, after a push-button telephone caller has entered an account number and the credit verification function cannot validate the push-button telephone caller, operator assistance is automatically initiated (col. 9, lines 40-45). Additionally, during a push-button telephone call, after an account number has been entered (as well as a selection number), the call is transferred to an operator if it is determined that the caller may be a freeloader (col. 11, lines 18-36). Therefore, Barger provides two scenarios in which entered data exists when a call is transferred to an operator.

6. Applicant's arguments with respect to claims 22 and 25 have been considered but are moot in view of the new grounds of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



Stella L. Woo
Primary Examiner
Art Unit 2643